IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.5246 OF 2004

Shri Senapati Waman Patil & Ors. : Petitioners

V/s.

Shri Dattu Gopala Narawade, since deceased through legal heirs:

a) Jaysingh Dattu Narawade & Ors. : Respondents

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Mr.A.N.Helekar for the petitioners.

Mr.Uday Warunjikar for the respondent nos.1a to 1c.

Mr.D.A.Patil, Asstt. Govt. Pleader, for the respondent no.2.

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CORAM : S.A. BOBDE, J.

October 3, 2005.

P.C.:

1. The petitioners have challenged the order of the Addl. Commissioner dated 28.11.1997. By the impugned order, the learned Addl. Commissioner confirmed the order of the Sub-Divisional Officer dated 25.6.1990 cancelling mutation entry nos.44, 45 and 46 in the petitioner's favour and directing the Tahsildar to carry out re-examination of the points pertaining to the order. The Addl. Commissioner

has merely confirmed this order. Having regard to the settled position in law that mutation entries do not affect title in the property and only have presumptive value as regards possession, unless the contrary is established under section 35 of the Indian Evidence Act, I see no reason to interfere. The petitioner is at liberty to participate in the re-examination of the points as ordered on 25.6.1990 and/or file a suit as may be advised in respect of the disputed land.

2. The petition is, therefore, dismissed.

S.A. BOBDE, J.